

**MINUTES**  
**Texas Board of Health Meeting**  
**June 13, 2002**

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The June 13, 2002, meeting of the Texas Board of Health (Board) was called to order at 1:40 p.m., at the Texas Department of Health (TDH), 1100 West 49<sup>th</sup> Street, Room M-739, Austin, Texas. Mario R. Anzaldua, M.D., Chair, presided. A quorum was present with members George H. McCleskey, Vice-Chair, Beverly Robinson, Ph.D., R.N., C., F.A.A.N., Raymond Hannigan and Amanullah Khan, M.D., Ph.D. in attendance.

**Registered Guests**

Erin Florence Jones, OZ Systems  
Gail Harris, Texas Medical Association  
JoAnne Hargan, Schening-Plough  
Holly Jacques, Merck  
Beverly Jimmerson  
Richard Ponder, J & J  
Angelica Martinez  
Rudy delaVina, County of Hidalgo  
Sam Stone, Texas Wholesale Druggists Association  
Melinda Johnson, HDMA – Amerisource Borgen  
Jack Erskern  
Rita Littlefield, Texas Renal Coalition  
Lillie Gilligan, Glaxo Smith/Kline  
Regina Martin, Legislative Budget Board  
Heidi Lopez-Cepero, Governor's Office of Budget and Planning

Dr. Anzaldua welcomed guests. Also in attendance at the meeting were Eduardo J. Sanchez, M.D., M.P.H., Commissioner of Health, and other key staff members of TDH.

ON A MOTION MADE BY MR. MCCLESKEY AND SECONDED BY MR. HANNIGAN, THE MINUTES OF THE MAY 2-3, 2002 TEXAS BOARD OF HEALTH MEETING WERE APPROVED.

Dr. Sanchez spoke regarding recent activities as Commissioner and presented the Commissioner's Report. (*Attachments I-II*)

Ms. L. Jann Melton-Kissel, Chief, Bureau of Children's Health, presented an update on the

Children with Special Healthcare Needs (CSHCN) budget shortfall issues for FY02 and FY03. No action was taken.

Mr. Jack Sims, Program Specialist, Texas Vaccines for Children Program, Immunizations Division, requested approval to publish proposed rules concerning consent for immunizations and statewide immunization of children by hospitals, physicians, and other health care providers. The proposed revisions are necessary to clarify the rules and update the consent forms relating to minors. (*Attachment III*)

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY DR. KHAN, THE BOARD APPROVED THE PROPOSED RULES CONCERNING CONSENT FOR IMMUNIZATIONS AND STATEWIDE IMMUNIZATION OF CHILDREN BY HOSPITALS, PHYSICIANS, AND OTHER HEALTH CARE PROVIDERS FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

John Villanacci, Ph.D., Acting Chief, Bureau of Epidemiology, requested approval of proposed rules concerning the cancer registry and the reporting of cases of cancer for the recognition, prevention, cure or control of cancer. These proposed rules amend and replace previous rules for implementation of the Health and Safety Code, Chapter 82, Texas Cancer Incidence Reporting Act and Senate Bill 285, 77<sup>th</sup> Legislature. (*Attachment IV*)

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY DR. ROBINSON, THE BOARD APPROVED THE PROPOSED RULES CONCERNING CANCER REGISTRY FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Cindy Jones, Ph.D., R.N., Director, Family Planning Division, requested approval of proposed repeals and new rules, subject to the approval of the State Medicaid Director, relating to the Family Planning Program as required by Government Code, §2001.039, Chapter 56. (*Attachment V*)

ON A MOTION MADE BY DR. ANZALDUA AND SECONDED BY DR. ROBINSON, THE BOARD APPROVED THE PROPOSED REPEALS AND NEW RULES, SUBJECT TO THE APPROVAL OF THE STATE MEDICAID DIRECTOR, RELATING TO THE FAMILY PLANNING PROGRAM FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Margaret Drummond-Borg, M.D., Director, Genetic Screening and Case Management Division, requested approval of proposed rules concerning the Newborn Screening Program as required by Government Code, §2001.039. (*Attachment VI*)

ON A MOTION MADE BY DR. KHAN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED THE PROPOSED RULES CONCERNING THE NEWBORN SCREENING PROGRAM FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Ms. Rose Marie Linan, Team Leader, County Indigent Health Care Program, Associateship for Family Health, requested approval of the final adoption of the rules concerning the County Indigent Health Care Program in order to comply with Health and Safety Code, Chapter 61, which requires that the standards and procedures used to determine eligibility must be consistent with the Temporary Assistance for Needy Families (TANF) program and Medicaid standards and procedures. (*Attachment VII*)

ON A MOTION MADE BY DR. KHAN AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED AN ORDER ADOPTING THE RULES CONCERNING THE COUNTY INDIGENT HEALTH CARE PROGRAM TO BE EFFECTIVE AUGUST 1, 2002.

Tom J. Sidwa, D.V.M, Acting Division Director, Meat Safety Assurance Division, Bureau of Food and Drug Safety, requested approval of proposed rules concerning meat and poultry inspection. (*Attachment VIII*)

ON A MOTION MADE BY MR. MCCLESKEY AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED THE PROPOSED RULES CONCERNING MEAT AND POULTRY INSPECTION FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control, requested approval of a proposed

rule concerning the licensing of radioactive material which addresses documentation requirements, increases in financial assurance for decommissioning for certain quantities of radioactive materials and the requirement of a decommissioning funding plan and financial assurance. (*Attachment IX*)

ON A MOTION MADE BY MR. MCCLESKEY AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED THE PROPOSED RULES CONCERNING LICENSING OF RADIOACTIVE MATERIAL FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control, requested approval of a proposed repeal and new rule concerning the licensing of radioactive waste processing and storage facilities. (*Attachment X*)

ON A MOTION MADE BY MR. MCCLESKEY AND SECONDED BY MR. HANNIGAN, THE BOARD APPROVED A PROPOSED RULE CONCERNING LICENSING OF RADIOACTIVE WASTE PROCESSING AND STORAGE FACILITIES FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control, requested approval of a proposed rule concerning the licensing of uranium recovery and byproduct material disposal facilities. (*Attachment XI*)

ON A MOTION MADE BY MR. MCCLESKEY AND SECONDED BY DR. ROBINSON, THE BOARD APPROVED THE PROPOSED RULES CONCERNING LICENSING OF URANIUM RECOVERY AND BYPRODUCT MATERIAL DISPOSAL FACILITIES FOR PUBLICATION IN THE *TEXAS REGISTER* FOR A 30-DAY COMMENT PERIOD.

Mr. Steven Mandrel, Director, Retail Foods Division, Bureau of Food and Drug Safety, requested approval of final rules concerning the accreditation of food management programs and

certification of food managers. (*Attachment XII*)

ON A MOTION MADE BY MR. MCCLESKEY AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED AN ORDER ADOPTING THE RULES CONCERNING THE ACCREDITATION OF FOOD MANAGEMENT PROGRAMS AND CERTIFICATION OF FOOD MANAGERS TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Mr. John L. Gower, Director of Programs, Drugs and Medical Devices Division, Bureau of Food and Drug Safety, requested final adoption of rules concerning the licensing of wholesale distributors of drugs including good manufacturing practices. (*Attachment XIII*)

ON A MOTION MADE BY MR. MCCLESKEY AND SECONDED BY DR. ROBINSON, THE BOARD APPROVED AN ORDER ADOPTING THE RULES CONCERNING THE LICENSING OF WHOLESALE DISTRIBUTORS OF DRUGS INCLUDING GOOD MANUFACTURING PRACTICES TO BE EFFECTIVE 20 DAYS AFTER FILING WITH THE TEXAS REGISTER DIVISION, OFFICE OF THE SECRETARY OF STATE.

Ms. Susan E. Tennyson, Chief, Bureau of Food and Drug Safety, requested approval of the proposed rule concerning the average manufacture price and purchase price reporting for pharmaceuticals that will implement the provisions of House Bill 915, and will provide instructions to licensed drug manufacturers and wholesale drug distributors to report the average manufacturer price and the actual price of drugs sold in Texas. (*Attachment XIV*)

Dr. Anzaldua recognized persons to give public comment.

Mr. Sam Stone, Texas Wholesale Druggists Association, testified it was the legislature's intent to keep information regarding the average manufacture price and purchase price reporting for pharmaceuticals confidential. He requested the proposed rule be forwarded to the Attorney General for an opinion before the rules come back to the Board for final adoption.

Ms. Melinda Johnson, HDMA – Amerisource Borgen, testified it was the legislature's intent to keep information regarding the average manufacture price and purchase price reporting for

pharmaceuticals confidential. She requested the proposed rule be forwarded to the Attorney General for an opinion before the rules come back to the Board for final adoption.

A discussion followed among the Board members and Ms. Susan Steeg, General Counsel, regarding confidentiality and legislative intent.

ON A MOTION MADE BY DR. ROBINSON AND SECONDED BY MR. MCCLESKEY, THE BOARD APPROVED THE PROPOSED RULE CONCERNING THE AVERAGE MANUFACTURE PRICE AND PURCHASE PRICE REPORTING FOR PHARMACEUTICALS BY EXTENDING THE PUBLICATION IN THE *TEXAS REGISTER* FOR A 60-DAY COMMENT PERIOD.

Dr. Anzaldua announced a recess at 3:35 p.m.

Dr. Anzaldua reconvened the meeting at 3:50 p.m., on Thursday, June 13, 2002. Other Board members in attendance were Dr. Beverly Robinson, Mr. Raymond Hannigan, Mr. George McCleskey and Dr. Amanullah Khan.

Dr. Beverly Robinson spoke regarding appointments to five vacancies on the Osteoporosis Advisory Committee. The vacancies are for three consumer members and two other members. There were a total of seventeen applications submitted. Ms. Margaret Mendez, Chief, Bureau of Women's Health, presented the nominees. (*Attachment XV*)

ON A MOTION MADE BY DR. ROBINSON AND SECONDED BY MR. MCCLESKEY, THE BOARD APPROVED THE FOLLOWING APPOINTMENTS TO THE OSTEOPOROSIS ADVISORY COMMITTEE:

- MS. MICKEY JACOBS, AS A CONSUMER MEMBER TO COMPLETE THE REMAINDER OF A 4-YEAR TERM ENDING DECEMBER 31, 2002 PLUS A 6-YEAR TERM BEGINNING JANUARY 1, 2003 – DECEMBER 31, 2008
- MS. MARCIA FONDUES-HEADLEY, AS A CONSUMER MEMBER TO COMPLETE THE REMAINDER OF A 4-YEAR TERM ENDING DECEMBER 31, 2004
- MS. SUSANNAH WONG, AS A CONSUMER MEMBER TO COMPLETE THE REMAINDER OF A 6-YEAR TERM ENDING DECEMBER 31, 2006

- DR. JAMES MCKINLEY, AS AN OTHER MEMBER TO COMPLETE THE REMAINDER OF A 6-YEAR TERM ENDING DECEMBER 31, 2002 PLUS A 6-YEAR TERM BEGINNING JANUARY 1, 2003 – DECEMBER 31, 2008
- MS. KALI HAWTHORNE, AS AN OTHER MEMBER TO COMPLETE THE REMAINDER OF A 6-YEAR TERM ENDING DECEMBER 31, 2004

Dr. Beverly Robinson spoke regarding appointments to three vacancies on the Indigent Health Care Advisory Committee. The vacancies are for two consumer members and one non-consumer member, whose terms are to expire August 31, 2007. There were a total of twelve applications submitted. Ms. Bonnie Mangers, Division Director, County Indigent Health Care Program, presented the nominees. (Attachment XVI)

ON A MOTION MADE BY DR. ROBINSON AND SECONDED BY MR. MCCLESKEY THE BOARD APPROVED THE FOLLOWING APPOINTMENTS, WITH TERMS TO EXPIRE ON AUGUST 31, 2007, TO THE INDIGENT HEALTH CARE ADVISORY COMMITTEE:

- MR. AHMED ADU-OPPONG, CONSUMER MEMBER
- MS. IMELDA NATERA, CONSUMER MEMBER
- MS. REBECCA CURRINGTON, NON-CONSUMER MEMBER

Dr. Beverly Robinson spoke regarding appointments to three vacancies on the Promotor(a) or Community Health Worker Training and Certification Advisory Committee. The vacancies are for two Promotores(as) or Community Health Workers and one professional who works with Promotores(as) or Community Health Workers, whose terms are to expire August 31, 2007. There were a total of six applications submitted. Ms. Cecelia Barrios, Community Health Promotion Specialist, Public Health Promotion Program, presented the nominees. (Attachment XVII)

ON A MOTION MADE BY DR. ROBINSON AND SECONDED BY DR. ANZALDUA, THE BOARD APPROVED THE FOLLOWING APPOINTMENTS, WITH TERMS TO EXPIRE ON DECEMBER 31, 2005 (BY RULE JANUARY 1, 2006), TO THE PROMOTOR(A) OR COMMUNITY HEALTH WORKER TRAINING AND CERTIFICATION ADVISORY COMMITTEE:

- MS. GRACIELA CAMARENA, COMMUNITY HEALTH WORKER
- MR. KEVIN A. HUNT, COMMUNITY HEALTH WORKER

- MR. OSCAR MUNOZ, PROFESSIONAL WHO WORKS WITH PROMOTORES(AS)

Dr. Robinson commended staff working with the three committees' appointments for doing a great job in soliciting for nominations.

Ms. Valarie Wolfe, Policy Director, Bureau of Nutrition Services, presented an update on the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) Advisory Committee. The next meeting will be held July 9, 2002. No action was taken. (*Attachments XVIII*)

Mr. Mark Scott, CPA, MBA, Director of Internal Audit, reported on recent audits issued including Human Resources Oversight, South Texas Health Care System, Bureau of Vital Statistics, and Contract Monitoring Report. He also discussed the progress on the audit of budgeting and expenditures. A follow-up audit was done for PeopleSoft and a draft report given to management for review. External audit activities include the State Auditor conducting their follow-up review on the Business Improvement Plan and the Comptroller finishing their post-payment audit for FY 2001. No action was taken. (*Attachment XIX*)

A discussion followed among the Board members and Dr. Sanchez regarding the Internal Audit budget. No action was taken.

Ms. Machele Pharr, Chief Financial Officer, requested approval of the 2002 operating budget transfers. (*Attachment XX*)

ON A MOTION MADE BY MR. HANNIGAN AND SECONDED BY MR. MCCLESKEY, THE BOARD APPROVED 2002 OPERATING BUDGET TRANSFERS AS AUTHORIZED BY THE GENERAL APPROPRIATIONS ACT FOR THE 2002-2003 BIENNIUM.

Ms. Machele Pharr, Chief Financial Officer, presented for discussion the prioritization of strategies for inclusion in the 2004/2005 Legislative Appropriations Request (LAR). (*Attachment XXI*)

Dr. Anzaldua recognized persons to give public comment.

Ms. Rita Littlefield, Texas Renal Coalition, spoke regarding her concern that funding for the Kidney Health Care Program was needed in order to maintain current drug benefits. She stated the travel benefit is seriously under funded. She requested the Board of Health to consider adequately



funding this program in the LAR.

Ms. Pharr suggested having a public hearing regarding the LAR prior to the next Board of Health meeting. Plans are to pursue additional funding for KHC as an exceptional item. No action was taken.

Ms. Wendy Francik., Office of Strategic Health Planning, presented an overview of the priorities of the Texas Department of Health's 2003-2007 Strategic Plan that is due to the Legislative Budget Board and Governor's Office of Budget and Planning on June 17, 2002. Copies of the plan are being distributed and also will be available on the TDH web site this month. No action was taken. (*Attachment XXII*)

Charles E. Bell, M.D., Executive Deputy Commissioner, requested approval of a gift granted to the South Texas Health Care System in Harlingen, Texas of \$20,000 (two annual installments) to be used to underwrite food and cooking supplies necessary for a diabetes education program. (*Attachment XXIII*)

ON A MOTION MADE BY MR. HANNIGAN AND SECONDED BY DR. ROBINSON, THE BOARD APPROVED THE GIFT OF \$20,000 GIVEN TO THE SOUTH TEXAS HEALTH CARE SYSTEM IN HARLINGEN, TEXAS, TO BE USED BY THE DIABETES EDUCATION PROGRAM.

Mr. Bobby Lane, Director, Office of Business Improvement, presented an update on the activities of the Business Improvement Team. Copies of the Business Practices Third Quarter Progress Report have been sent to the State Auditor's Office, Governor, Lieutenant Governor, Health and Human Services Commission, Speaker of the House, Legislative Budget Board, and the Chairs of House Appropriations, Senate Finance and Health Committees. There have been no negative comments. No action was taken. (*Attachment XXIV*)

There were no public comments.

Dr. Anzaldua announced the next meeting of the Texas Board of Health will be held on Thursday, July 25, 2002, in Austin.

The meeting was adjourned on Thursday, June 13, 2002, at 4:45 p.m.

APPROVED: July 25, 2002

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Mario R. Anzaldua, M.D., Chair  
Texas Board of Health

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Date

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George H. McCleskey, Vice-Chair  
Texas Board of Health

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Date